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FILED
U.S. BANKRUPTCY COURT
2013 JAN 17 P 4:16
S.D.N.Y.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES, LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

NOTICE OF APPEAL

Appellants¹ hereby appeal to the United States District Court for the Southern District of New York from the order of bankruptcy judge the Honorable Burton L. Lifland Denying Non-Claimants Request to File Motion to Intervene, entered in the above-captioned proceedings on January 3, 2013 (the "Order"). The Order denied Appellants' request to intervene in proceedings pending in the bankruptcy court on the Trustee's Motion for an Order Rejecting an Inflation

¹ A list of Appellants, referred to in the Record below as "the Clawback-Intervenors", is annexed hereto as **Exhibit A**.

Adjustment to the Trustee's Calculations of "Net Equity" ("Trustee Motion"). A copy of the Order is annexed hereto as **Exhibit B**.

The Order is final and appealable pursuant to 28 U.S.C. § 158(a)(1). *Liquidators of Lehman Bros. Austl. v. Lehman Bros. Special Fin. Inc. (In re Lehman Bros. Holdings Inc.)*, 697 F.3d 74, 76-77 (2d Cir. 2012) (holding that a bankruptcy court's denial of a motion to intervene is final and appealable). In the alternative, if the District Court determines that the bankruptcy judge could not have entered the Order as to Appellants consistent with Article III of the United States Constitution, they request that the Court treat the Order as proposed findings of fact and conclusions of law under FRBP 9033 and LR 9033-1. *See* Amended Standing Order of Reference, No. 12 Misc. 32 (S.D.N.Y. Jan. 31, 2012). Appellants object to the Order on the grounds that the bankruptcy court erroneously determined a question of law, rejecting the right to be heard in a timely manner of persons whose interests are potentially materially affected by the relief sought by the Trustee's Motion.

The parties to this appeal and their respective counsel are:

Appellants and Counsel

Appellants, as listed in Exhibit A
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Appellee and Counsel

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Interested Party

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Josephine Wang, General Counsel
Kevin H. Bell, Senior Associate General Counsel
For Dispute Resolution
Lauren T. Attard
Assistant General Counsel

Because this appeal relates to the Trustee's Motion now pending before the bankruptcy court, Appellants intend to offer the Court a stipulated briefing schedule for its consideration.

Dated: January 17, 2013
Washington, D.C.

Respectfully submitted,

K&L GATES LLP

By: 

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